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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3816 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No.
2. To be referred to the Reporter or not? No.

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3. Whether Their Lordships wish to see the fair copy of the judgement? No.
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No.
5. Whether it is to be circulated to the Civil Judge? No.

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MALJIBHAI KHIMABHAI DAMOR

Versus

DIVISIONAL CONTROLLER

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Appearance:

MR HK RATHOD for Petitioner

MR YS LAKHANI for Respondent No. 1

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CORAM : MR.JUSTICE S.D.PANDIT

Date of decision: 18/06/98

ORAL JUDGEMENT

Maljibhai Khimabhai Damor has preferred this SCA to challenge the order of the Labour Court, Vadodara in

Ref. No. 737 of 1987 passed on 4.7.90.

2. Present petitioner was taken up as a badly conductor by the respondent G.S.R.T. Corporation to work as conductor during the leave period of regular conductors some time prior to 25.4.87. On 25.4.87 he was the conductor on a bus proceeding from Zalod to Gamadi. When the said bus was checked by the officers of the respondent, it was found that present petitioner though he had collected fare from four lady teacher, he had not in fact issued tickets to them till the bus was checked. It was also found that in respect of one more passenger also though no ticket was issued to him, the amount of the ticket was received by the present petitioner. The inspection party had recorded the statement of the present petitioner on the spot but in the said statement, no explanation was given by the present petitioner for non issuance of tickets to four lady teachers though he had admitted of having received the amount of fare from them. Thereafter a departmental inquiry was held against him and he was held guilty and thereafter he was discontinued from service. His name was also deleted from the waiting list of the conductors and therefore, he had gone before the Labour Court and consequently the Ref.No. 737 of 1987 came up before the Presiding Officer of the Labour Court, Vadodara.

3. The Labour Court found that the explanation which was given by the petitioner before the inquiry officer that he was going to issue ticket to the said passengers but before he could do so, there was an inspection of his bus, was a false explanation. The Labour Court found that in view of the materials before it at the most it could be said that the conduct of the conductor was suspicious. But as the petitioner was a badly worker and his services were terminated on account of admitted misconduct, the Labour Court found that it was not possible to exercise powers under section 11-A of the I.D. Act and therefore, the Labour Court rejected the said reference.

4. Though said reference was rejected on 4.7.90 the petitioner has come before this court on 3.4.97. Thus he has come after 6-1/2 years. Admittedly the petitioner was not a permanent employee and he was employed during the leave vacancy. Therefore, the order passed by the Labour Court could not be said to be either perverse or illegal so as to interfere with the same by exercising powers under article 227 of the Constitution of India. But in view of the finding of the Labour Court that from the material on record, it is not possible to hold that

there was misappropriation of the amount by the petitioner and there was only a suspicious conduct of him, the respondent's action of deleting his name from the waiting list of conductors, on account of the said incident, is not justified. Therefore, the only relief which could be granted in the present petition is to direct the respondent to include the name of the petitioner in the waiting list of conductors and consider him for the job of conductor as and when his turn comes. With these observations the petition is rejected. Notice discharged. No order as to costs.

(S.D.Pandit.J)